

## **RICHMOND COUNTY WETLANDS BOARD MEETING MINUTES**

June 27, 2013

The Richmond County Wetlands Board had a meeting on June 27, 2013 in the Public Meeting Room, Warsaw, Virginia.

Wetlands Board Members Present:

David Gallagher (Chairman)  
Billy Walker (Vice-Chairman)  
Nancy Finnegan  
Greg Gruner  
Bobby Yeatman

Others attending the meeting:

Richard English (Code Compliance Officer)  
Denise Dunaway (Development Services Manager)  
Randy Owen (VMRC)  
Morgan Quicke  
Jeff Howeth  
Rob Smith  
Terrell Bowers  
Pat Weakland  
Hill Wellford  
Tim Hayes  
Alice Wellford  
Hylah Boyd  
Jan Dockins  
Edward Walter  
Betty Butler  
Juliana Strock  
Judy Allen  
Edward Haile  
Tom Rubino  
William Meredith  
Danna Dickinson  
Kathy Clarke  
Rebekah Martin  
Priscilla Wellford  
R. C. Wellford  
Victor Snell  
Mary Snell  
Beverly Rowland  
Walter Rowland

Ann Graliano  
Frank Graliano  
Gary Keckley  
Dale Grinstaff  
Ray Dalney  
Anna Dalney  
John Oliver  
Sherry Pitts  
Woody Hynson  
Kennon Morris  
Jay Garner  
Anne B. Carner  
Mac Garrett  
Philip Reed  
Randy Packett  
Tayloe Murphy  
Robert Mallory  
Marian Packett  
Mercer O'Hara  
Janice Hamilton  
Joyce Pemberton  
Vanelia Gallaher  
Approximately 10 other citizens

Chairman Gallagher called the meeting to order at 7:00 p.m. and welcomed members and guests.

### **MINUTES**

Minutes from the April 25, 2013 meeting were unanimously approved as written.

### **PUBLIC HEARINGS**

- Robert and Elizabeth Woods, 8201 Madrillion Estates Drive, Vienna, Virginia 22182 has applied for permission to construct a 408' long by 6' wide community pier consisting of 17 finger piers and associated mooring piles, creating 34 wet slips, accessed by a 50' long by 6' wide access pier along their Totuskey Creek Shoreline. The applicant has also applied for permission to install a 114' long by 20' wide concrete boat ramp and associated courtesy pier. The property in question is located on the north side of Folly Neck Road, approximately 0.9 miles west from the intersection with Beaver Dam Road, and is further identified as Parcel 52 on Tax Map Insert 30. VMRC #13-0681.

Chairman Gallagher asked Richard English to read the public notice regarding this application.

Jeff Howeth, agent for applicant, advised the board the location of the project and gave a brief history of the Folly Farms Subdivision. Mr. Howeth briefly explained the application drawings

to the board, showing the 354 sq. ft of wetlands impact. Nancy Finnegan questioned how the numbers of slips proposed. Mr. Howeth explained the process to the board. Ms. Finnegan showed concern for the boat traffic and pollution. Chairman Gallagher agreed with her concerns. Richard English read the staff report which recommended approval with the following conditions: making it a condition of the permit to procure such a legal instrument necessary to afford the future property owners of Folly Farms Subdivision the rights to use the facilities; and requiring a bond or letter of surety in the amount to cover costs associated with potential abandonment and/or loss of the facility until such a time that a valid Property Owner or Homeowner Association has been established to take over the maintenance responsibilities of the facility. After no further comments from the public or the board, Bobby Yeatman made a motion to approve the project with the above mentioned conditions. Greg Gruner seconded the motion. The project was approved with a 4-1 vote, Nancy Finnegan voting nay, with an expiration date of June 27, 2016.

- Terrell W. Bowers, 1 Airy Hall, Kiawah, South Carolina 29455, has applied for permission to construct a 552' long by 6' wide community pier consisting of 23 finger piers and associated mooring piles, creating 46 wet slips, accessed by a 220' long by 6' wide access pier along his Rappahannock River shoreline. The property in question is located approximately 0.9 miles on the south side of Carters Wharf Road, and is further identified as Parcel C of Tax Map 5A, Section 1. VMRC #13-0656.

Chairman Gallagher asked Richard English to read the public notice regarding this application.

Mr. Bowers, applicant, spoke to the board about his proposed community pier project and the history of the entire property. He explained that all three phases of the subdivision were approved, between 2009 and 2012, by the Planning Commission and the Board of Supervisors. During all three phases of the subdivision approval, no one commented about the community pier. Mr. Bowers feels the sources against his project are the Rappahannock National Wildlife Refuge, the Rappahannock Wildlife Refuge Friends Group, and Mr. Hill Wellford and his brother. Mr. Bowers referenced the Richmond County Zoning Ordinance which encourages community piers over individual piers. Mr. Bowers asked the board to consider the facts, not who brings the most and loudest people to the hearing.

Rob Smith, applicant's attorney, thanked the board for their service. Attorney Smith briefly reminded the board about their legal authority. The Code of Virginia has authorized Richmond County to consider two things, the Richmond County Zoning Ordinance and how Mr. Bowers has complied, and the Wetlands Ordinance and what the jurisdiction of the wetlands board is and what is proper for the board to consider in relation to Mr. Bower's application. He asked the board to use common sense when deciding Mr. Bower's application.

Jeff Howeth, applicant's agent, reviewed the project drawings, explaining the 70 sq. ft. of wetlands impact.

Chairman Gallagher opened the public comment session, allowing three minute time limit for each speaker. He asked that each speaker state their name, address, and county in which they reside.

R. C. Wellford, Sabine Hall Road, Warsaw, VA, spoke in opposition to the Bowers application. Mr. Wellford feels that this project is excessive.

Pat Weakland, 1539 Threeway Road, Warsaw, VA, spoke in support of the Bowers application stating that a community pier is recommended in the zoning ordinance within a subdivision.

Tim Hayes, 975 Pea Ridge Road, Bruington, VA, asked the board to look at the overall impacts that this pier would create, not just the 70 sq. ft.

Hill Wellford, 1909 Kendalls Road, Chance, VA, presented the board with handouts (Exhibits titled LWB1 and LWB2) and additional petitions (LWB5). Mr. Wellford presented the board four (4) permissions slips (Exhibit LWB3) giving him permission to speak on their behalf; therefore, he asked the board for additional minutes to speak. Mr. Wellford spoke against the proposed project. Mr. Wellford felt that the approval of this project would destroy the critical ecosystem and wildlife habitat that they are working so hard to preserve in the Fones Cliffs area of the Rappahannock.

Alice Wellford, 1909 Kendalls Road, Chance, VA, submitted the board a handout (Exhibit LWB4). Ms. Wellford asked the board to deny the application, due to the impact threat to the ecosystem.

Hylah Boyd, 6303 Towana Road, Richmond, VA, is a property owner in Essex County and is the founder of Scenic Virginia. Ms. Boyd spoke against the project and feels that far more damage will be done if the national, scenic, and historical character of this area is ruined.

Jan Dockins, 211 Headley Lane, Warsaw, VA, spoke in opposition to the Bower's request. Mr. Dockins stated that this is a unique site and he is concerned with the damage this project would have on Luke's Island.

Edward Haile, 3079 Daingerfield Landing Road, Champlain, VA, is opposed to this project. He advised the board that the Rappahannock is a rough piece of water and he feels this is not the place for a pier.

Tom Robino, 387 Shilo Road, King & Queen, VA, spoke against the Bowers community pier and presented the board with photographs (Exhibit LWB7). Mr. Robino informed the board that the proposed pier would be in an unprotected location, facing boats sideways to both the current and the winds, which would cause regular spillage of fuel, oil, battery acid and untreated sewage.

William Meredith, 5303 Tidewater Trail, Loretto, VA, is a regular boater on the Rappahannock and is concerned about the winds and currents. Mr. Meredith asked the board to consider the wetlands impact that this project would have to the surrounding environment.

Kathy Clarke, 1646 Jones Creek Road, Warsaw, VA, spoke in opposition to the community pier. Ms. Clarke has lived near the property her entire life and feels the property is naturally volatile and is highly unstable.

Beverly Rowland, Dunbrook Road, Millers Tavern, VA, opposes the request and asked the board to consider the increase in boat traffic.

Walter Rowland, Dunbrook Road, Millers Tavern, VA, serves on the Middle Peninsula Land Trust and feels this type of activity will greatly degrade the river. Mr. Rowland also recommended that the board/staff measure the adverse impact and require a performance bond, in case this large project fails.

Ann Graziano, 92 Wilna Road, Warsaw, VA, spoke in opposition of the project and submitted a handout for the board (Exhibit LWB6). Ms. Graziano advised the board that she is president of the Rappahannock River Wildlife Refuge Friends Group and would like for the board to consider the affect the pier would have on the bald eagles and other wildlife, the waste and carbon emissions from the powerboats, and the impact that would be on the eco-tourism. She wanted to clarify that the friends group submitted one petition against the pier, not two.

Woody Hynson, 3895 James Monroe Highway, Colonial Beach, VA, briefly spoke against the application. Mr. Hynson shared with the board that this particular location on the river is not the right place to build a dock, the property is worth protecting. Mr. Hynson questioned how would you get a fire truck and hose down that cliff if there was a fire.

Kennon Morris, 261 Hickory Point Drive, Mt. Holly, VA, spoke in favor of the application because the Board of Supervisors has approved this subdivision and the proposed pier doesn't affect the wetlands. Mr. Morris advised the board that his company owns 1200 acres on Fones Cliffs. Mr. Morris said that the U. S. Fish & Wildlife had the chance to buy this land but never dealt in good faith.

Mac Garrett, 1663 Pilkington Road, Hustle, VA, questioned the access to the pier. Mr. Garrett is concerned with future hurricanes that will damage the boats, causing spillage. He asked the board to help preserve habitat and game and the many wetlands near the property.

Philip Reed, 1108 East Main Street, Richmond, VA, is with the Virginia Outdoors Foundation. Mr. Reed informed the board that the foundation expresses reservations and opposes this project, stating that the impact would be detrimental to the river, wildlife, and the wetlands.

Taylor Murphy, 174 Court Circle, Warsaw, VA, spoke in opposition to the Bower's request. Mr. Murphy feels that this pier will constitute an appropriation of public property for private use. He asked the board to consider a decision against this pier, which would be consistent with the Public Trust Doctrine.

Robert Mallory, 2689 Naylor's Beach Road, Warsaw, VA, spoke in favor of the Bowers application. Mr. Mallory feels that USF&WL should pay if they want to preserve the land and thinks that the owner has a right to have a pier.

Marion Packett, 340 Memorial Drive, Warsaw, VA, reminded the board that this is an approved subdivision and that he is in favor of a waterfront community having a community pier.

Mercer O'Hara, 1692 Sabine Hall Road, Warsaw, VA, spoke against the approval of the pier. Ms. O'Hara feels that certain areas need to be protected and with the approval of this pier, it will destroy a natural area.

Janice Hamilton, 1766 Kinsale Road, Kinsale, VA, believes that a bulkhead would be necessary to protect the boats and property. Ms. Hamilton is not for or against the pier, she just feels like the applicant needs to re-think options.

Chairman Gallagher closed the public comment session and allowed the applicant time to answer the questions.

Jeff Howeth explained the location of Luke's Island, he advise the board and public that the plat which was recorded in December 2012 shows the access to the community area. Mr. Howeth referenced Mr. Packett's subdivision on Totuskey Creek and stated that upland homeowners can also be riparian owners. As for the issues on the environment, tremendous volumes of data was collected and received and all of the proper channels were followed during the process of this approved subdivision.

Attorney Smith reminded the board that they just approved an application that disturbed 354 sq. ft of vegetative wetlands, and this application has no direct impact on the wetlands.

Richard English read the staff report, which stated that if the board votes to approve the applicants request, the following is recommended: A bond or letter of surety be required to cover costs of potential abandonment and/or loss of the facility until such a time that a valid Property Owner or Homeowner Association has been established to take over the maintenance responsibilities of the facility.

Chairman Gallagher asked what measures would be taken to control the erosion on the cliffs. Mr. Howeth advised the board that the erosion is being caused by surface drainage and they would continue to work with Richard English and the staff to control the erosion.

Chairman Gallagher questioned the access to the pier. Mr. Howeth referenced the topographic map and explained the access.

Nancy Finnegan questioned the electricity. Mr. Howeth informed the board they have been working with Northern Neck Electric for years and that an underground system would provide power to the houses, bathroom facilities, and the dock. Ms. Finnegan questioned the bathroom facilities and Mr. Howeth explained that the Health Department follows certain guidelines for marina facilities, specifying number of hand basins, commodes, and showers. Mr. Howeth explained the central sewage system.

Ms. Finnegan asked Mr. Howeth to explain how people will get to the pier. Mr. Howeth advised that you would walk or drive to the common area, walk down the hill through the saddle, also access to Luke's Island. Mr. Howeth said steps with a platform would be constructed if needed.

Billy Walker commented that he is for private property rights and that Mr. Bowers has done everything needed; he would vote for this project.

Ms. Finnegan explained that this is an unusual site, very pristine area. In her opinion, this type of shoreline development cannot be deemed necessary for economic development and it directly impacts the wetlands. Ms. Finnegan asked her fellow board members to support her in denying this application.

Ms. Finnegan asked if the Board would consider a smaller pier. Chairman Gallagher explained that Mr. Bowers has proposed a pier that is larger than the county allows; therefore, he would need to go through a variance process.

Chairman Gallagher asked for a motion. Nancy Finnegan made a motion to deny the project; it failed to be seconded. Billy Walker made a motion to approve the project, seconded by Greg Gruner. The project was approved with a 4-1 vote, Nancy Finnegan voting nay, with an expiration date of June 27, 2016.

### **OTHER BUSINESS**

Richard English thanked the board for the time that they put into tonight's hearings.

Mr. English reminded the board that they would have a public hearing on July 18, 2013 at 7:00 p.m.

Mr. English informed Greg Gruner and Billy Walker that both of their terms will expire on June 30, 2013. Mr. Gruner and Mr. Walker agreed to serve another three year term.

### **ADJOURN**

After no further business, the meeting adjourned at 9:57 p.m.

Submitted as observed,

Richard English  
Acting as Secretary